

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISUMU**  
**CRIMINAL DIVISION**  
**CRIMINAL MISC. APPLN NO. E172 OF 2025**

**FREDRICK OMONDI OMONDI ..... APPLICANT**

**- VERSUS -**

**REPUBLIC ..... RESPONDENT**

**R U L I N G**

1. **FREDRICK OMONDI OMONDI** ('the applicant') was on **27/4/2016** sentenced to life imprisonment for the offence of incest. He had been tried by the Principal Magistrate's Court, Winam and convicted of the said offence.
2. An appeal to this Court in **Ksm HCCRA No. 52 of 2017** resulted in the reduction of that sentence to 20 years on **28/2/2018** by **Majanja J.**
3. By a Motion on Notice dated **9/9/2025**, the applicant has sought that the said sentence be reviewed. The grounds were that he has tender children who are dependent on him as he had been divorced by his wife by the time the offence was being committed. **Ms. Kagali** for the State opposed the application on the grounds that the sentence having been reviewed, it cannot be reviewed any further.
4. I have considered the record. it is not in dispute that the applicant has already exercised his right of appeal and succeeded to have the life sentence reduced to 20 years. There is no jurisdiction by this Court to re-look at its Judgment twice

once it has exercised its discretion. Sentencing is in the discretion for the sentencing Court.

5. Majanja J, in his wisdom, reduced the life sentence meted out on the applicant to a mere 20 years' imprisonment. That discretion cannot be re-looked at by this Court.
6. In this regard, if the applicant is aggrieved and or dissatisfied with that exercise of discretion, he should pursue an appeal to the Court of Appeal which has the jurisdiction to interfere with an exercise of discretion by this Court. That route of course has its own dangers. The sentence was reduced before the Supreme Court of Kenya clarified that the discretion of minimum sentences is only under *section 203 of the Penal Code* and no other provision of law that provides for mandatory sentences. The applicant risks the danger of the sentence of 20 years being enhanced back to life as provided for under the law. Be that as it may, that is within his right to decide whether to appeal or not.
7. For this Court, there lies no jurisdiction to grant the orders sought and the application is hereby dismissed.

It is so ordered.

**DATED** and **DELIVERED** at Kisumu this 6<sup>th</sup> day of **March, 2026**.

**A. MABEYA, FCI Arb**  
**JUDGE**